

State of Maharashtra whereas, applicant No.2 is the Village Development Officer and applicant No.3 is the Junior Assistant, Panchayat Samiti, Palghar.

3. The incident, which resulted in registration of the crime is in the backdrop of the discord between the applicants and the complainant. The applicants claim to be the owners of certain parcels of land in the village and, through these piece of lands, a 3 meter wide road is passing through. Subsequently, the said road is sanctioned to be 45 meters for the project of Sagari Mahamarg. This was the cause of a civil dispute between the applicants and Jayandra Pimpale and the proceedings are also instituted in the civil court. The applicants come up with a case that Jayandra Pimpale had encroached upon their land and this is the cause for the incident, which is reported to the police station on 12/06/2022 by both the parties, resulting into registration of distinct C.Rs.

4. C.R. No.162 of 2022, in which the applicants face accusations, is lodged by one Danesh Pimpale, who referred to the previous animosity between the parties on account of the land dispute. The report of incident is dated 12/06/2022, when in his normal routine work, he was proceeding on More Kuran Palghar Road, for collecting his cattles and, enroute he was talking to Jayandra Pimpale, while his wife Jayashri Pimpale was working in the field. At 2.30 p.m., it is alleged that the four

accused persons dismounted from their car and started abusing Jayandra Pimpale. At that moment, accused No.1 Rajesh pulled out an iron rod from the vehicle and by holding the rod with his both hands, he attempted to assault the complainant on his head. However, he avoided the said blow, which caused injuries to his left hand and even he sustained an injury on the left portion of the head. The accusations faced by others is that they assaulted him by way of iron rod, wooden sticks and fist and blows. When Jayandra Pimpale came to his rescue, he was also assaulted by Pankaj by means of iron rod. Lalit is alleged to have come on the spot with a scythe and when he was about to mount an attack, Jayandra Pimpale tried to shield himself and he sustained injury on his hands. The accusations faced by the accused is, all of them assaulted him as well as Jayandra Pimpale by iron rods, sticks, fists and blows.

5. Corresponding to the said version are the injuries sustained by the complainant. The injury certificate placed on record by learned A.P.P. issued by the Medical Officer, Rural Hospital Palghar refer to one abrasion on the right side of frontal bone of head (4x2 cm) and contusion on the left side of orbit (3x2 cm). The injury certificate also referred to a contusion on left forearm (middle 2/3 above wrist joint) (5 x 6 cm) and contusion on left scapular region (7x2 cm). He was advised to undergo C.T. scan of brain and X-ray of forearm and left scapular region. The certificate issued by the hospital, where the procedure was

carried out referred to a previous injury on the left forearm in the form of galeazzi fracture, left radius fracture and distal radioulnar joint dislocation. The head injury is described as on the middle left side from fronto parietal region with soft tissue injury and odencs.

6. As far as Jayandra Pimpale is concerned, the medical officer has described the injuries as abrasion and contusion and the hospital referred to it as 5th metacarpal fracture on the left hand with CLW closed stature (approx. 4.5 cm). Jayandra Pimpale has also sustained her CLW measuring 3x1 cm along with mild right side frontal scalp region soft tissue injury and odencs.

7. As per the version of the complainant, he was assaulted by accused No.1 Rajesh and, Jayandra Pimpale was assaulted by accused Pankaj. When the injuries are perused along with the version in the complaint, they are attributed to applicant No.1 and applicant No.2. Since the offence under Section 307 of the IPC has been invoked, it is a settled position of law that it is not the injury but the intention, which would be sufficient to ascertain, while a charge under Section 307 is invoked.

8. Since applicant Nos.1 and 2 mounted an attack with iron rods and the complainant and Jayandra Pimpale, who sustained the injuries, to which a reference is made above, I am not

inclined to confer any protection to them, since they must undergo custodial interrogation. The application is rejected as far as applicant Nos.1 and 2 are concerned.

9. However, as far as applicant – Amit M. Sankhe is concerned, since a general role is attributed to him, of assaulting the complainant and Jayandra Pimpale and no corresponding injuries found on them, he deserves a protection, subject to the condition that he shall render co-operation to the Investigating Officer. Hence, the following order:

ORDER

- (a) In the event of arrest, applicant No.3 – **Amit Moreshwar Sankhe** shall be released on bail in C.R. No.162 of 2022 registered with Palghar Police Station, District Palghar on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The applicant No.3 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The applicant No.3 shall report to the Palghar

Marg Police Station, Dist. Palghar on 11/07/2022 and 12/07/2022 between 11.00 a.m. and 02.00 p.m. and, thereafter, as and when directed by the Investigating Officer.

10. The application is partly allowed in the aforestated terms.

11. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]